

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|--------------------------|---|------------------------|
| SAMUEL M. JACOBS, |) | CASE NO. 5: 18-cv-0235 |
| |) | |
| Plaintiff, |) | JUDGE DONALD C. NUGENT |
| |) | |
| v. |) | MAGISTRATE JUDGE |
| |) | THOMAS M. PARKER |
| COMMISSIONER OF SOCIAL |) | |
| SECURITY ADMINISTRATION, |) | <u>ORDER ADOPTING</u> |
| |) | <u>REPORT AND</u> |
| Defendant. |) | <u>RECOMMENDATION</u> |

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Thomas M. Parker. (ECF #15). On January 30, 2018, Plaintiff, Samuel M. Jacobs, filed his Complaint (ECF #1) challenging the final decision of the Commissioner of Social Security Administration denying his claim for Disability Insurance Benefits. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Thomas M. Parker.

Procedural History

On October 16, 2018, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge found the Administrative Law Judge (ALJ) failed to apply the correct legal standards to Mr. Jacobs' case and therefore recommended that the final decision of the commission be VACATED and that this case be REMANDED for further proceedings consistent with this report and recommendation. Objections to the Report and Recommendation were to be filed within 14 days of service. The Defendant declined to file objections to the Report and Recommendation. (EFC #16). This matter is ripe for review.

Standard of Review for a Magistrate Judge's Report and Recommendations

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED R. CIV. P. 72(b) states:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b)(3) addresses only the review of portions of reports to which timely objections have been made; it does not indicate the appropriate standard of review for portions of the report to which no objections have properly been made. The Advisory Committee on Civil Rules commented on the standard of review stating, "when no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72 advisory committee's notes (citations omitted).

The U.S. Supreme Court stated: "It does not appear that Congress intended to require district court review of magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to these findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Here, the Defendant declined to object to the magistrate judge's Report and Recommendation. Accordingly, this Court reviews the Report and Recommendation for a finding of clear error on the face of the record.

Conclusion

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Parker (ECF

#15) is ADOPTED. The decision of the Commissioner denying Plaintiff's request for Disability Insurance Benefits is VACATED. Plaintiff's request that the case be remanded for further proceedings (ECF #1) is GRANTED.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: October 31, 2018